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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,912	11/21/2003	Graham W. Ketley	CN 37416	2385
4249	7590	04/19/2007	EXAMINER	
CAROL WILSON			SINGH, PREM C	
BP AMERICA INC.				
MAIL CODE 5 EAST			ART UNIT	
4101 WINFIELD ROAD			PAPER NUMBER	
WARRENVILLE, IL 60555			1764	
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	04/19/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/718,912

Applicant(s)

KETLEY ET AL.

Examiner

Prem C. Singh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 9-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 9-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/16/2007 has been entered.

Claim Objections

2. Claims 11 and 12 are objected to because of the following informalities:
Claim 11 (line 2) and claim 12 (line 2) have extra -- "less than"--.
Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1, 2, and 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gong et al (US 2002/0144932 A1) in view of Arena et al (US Patent 5,286,372).

7. With respect to claim 1, Gong discloses a process for the production of components for refinery blending of transportation fuels by selective oxidation of feed stocks comprising a mixture of hydrocarbons, sulfur-containing and nitrogen-containing

organic compounds (See Abstract). Typically sulfur compounds are relatively non-polar, heteroaromatic sulfides (See page 5, paragraph 0049). The process comprises:

(a) "Beneficially, all or a portion of the low boiling fraction in substantially liquid form is diverted through conduit (32a) and into an optional oxygenation process unit (100) for catalytic oxidation in the liquid phase with a gaseous source of dioxygen, such as air or oxygen-enriched air." (Page 8, paragraph 0089).

(b) "A stream containing oxygenated organic compounds is subsequently separated to recover, for example, a fuel or a blending component of fuel and transferred to fuel facility (90) through conduit (32b)." Gong also mentions recovering a product having a suitable total acid number (See page 4, paragraph 0043).

Gong does not specifically mention distillation to a cut point temperature by which 90% of the sulfur containing compounds in the feed would boil, and total acid number (TAN) less than about 2.0 mg KOH/g. However, Gong's disclosure of product having suitable TAN would necessarily have the distillation cut temperature as claimed.

Gong does not specifically mention about the oxidation catalyst used in step (a).

Arena invention discloses a process for treating a hydrocarbon fraction containing mercaptan, by an oxidizing agent (air) using an oxidation catalyst with an active metal from Group VIII that comprises magnesium or calcium oxide (See column 1, line 23; column 2, line 42; through column 3, line 8). The amount of metal is up to about 25 wt% of the composite (See column 5, lines 5-8).

Although Arena does not specifically mention treating nitrogen containing compounds in the feed, it is known to those skilled in the art that oxidation reaction with

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hydrocarbon fraction will react and remove nitrogen-containing compounds also along with sulfur-containing compounds as evidenced by Gong.

Since Gong and Arena both are treating hydrocarbon fraction to remove sulfur and nitrogen using oxygen in presence of an oxidation catalyst, it would have been obvious to one having ordinary skill in the art at the time the invention was made to disclose the oxidation catalyst in the Gong process as disclosed by Arena for sulfur and nitrogen removal.

8. With respect to claims 2, 9, and 14, Gong does not disclose the Group VIII metal and support.

Arena discloses using cobalt on a magnesium oxide / aluminum oxide support (See column 3, lines 4-6).

As discussed under claim 1, it would have been obvious to one skilled in the art at the time the invention was made to specify the oxidation catalyst in Gong invention using cobalt metal on zinc oxide as disclosed by Arena for an effective removal of sulfur and nitrogen-containing compounds.

9. Claims 10 and 13 have all the limitations of claim 1, and discussed before.

10. With respect to claims 11 and 12, Gong does not specifically mention about sulfur and nitrogen content of the distillate fraction.

Since Gong produces and recovers distillate fraction after reaction with the oxygen gas in presence of an oxidation catalyst, as discussed in claim 1, similar to the Applicant's claimed process, it is expected that the sulfur and nitrogen content of the distillate fraction obtained in Gong process should necessarily be in a range as claimed.

Response to Arguments

11. The Applicant's arguments based on Marcilly (US Patent 5,591,323) are moot because the new rejection does not use Marcilly.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prem C. Singh whose telephone number is 571-272-6381. The examiner can normally be reached on 7:00 AM to 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on 571-272-1444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PS /040607



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